IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.128 OF 2006

C.N.Ramachandran
and Ors. ..Petitioners

Vs.

State of Mah. & Anr. ..Respondents

...

Mr.T.J.Pandian, Advocate for Petitioners
Mr.S.V.More, A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : AUGUST 17,2006

P.C.

1. Heard the learned advocate for the Petitioners and the learned A.P.P. for the State.

2. The Petitioners are facing prosecution in Criminal Complaint No.3824/SS/2005 pending before the learned Metropolitan Magistrate, 28th Court, Esplanade, Mumbai. The said case is under Sections 138 read with Section 141 of Negotiable Instruments Act. In the said case, the process has been issued against the Petitioners. Petitioner No.1 is 74 years of age, Petitioner No.2 is 73 years of age

and Petitioner No.3 is over 70 years. Petitioner Nos.1 and 3 are residing at Chennai and Petitioner No.2 is residing at Banglore. The Petitioners have preferred application before the learned Magistrate under Section 205 of Cr.P.C. for exemption from personal appearance. The said application was preferred on 8.10.2001. However, till date, the said application has not been decided. Mr.Pandian, the learned advocate for the Petitioners states that Petitioners are pressing only one prayer i.e. in view of their age, they may be exempted from personal appearance.

3. Looking to the age of the Petitioners and the fact that they are residing in another State and looking to the facts and circumstances of this case, the learned Magistrate shall grant exemption to the Petitioners from personal appearance unless the Magistrate is of the opinion that the presence of the Petitioners is absolutely necessary. On those occasions, on advance notice being given to the Petitioners, the Petitioners shall present themselves before the learned Magistrate. On all other dates, the Petitioners would be exempted from personal appearance.

4. As far as other prayers of the Petitioners are concerned, it is open to the Petitioners to adopt appropriate proceedings.

5. Writ Petition is disposed of.

[V.K.TAHILRAMANI,J.]